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Written statement* submitted by the Human Rights Now, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Cambodia and China: Labour Exploitation in the Clothing Industry- Responsibility of International Apparel Brands

1. Introduction

More than two years have passed since the tragedy in Rana Plaza, Bangladesh.

Thousands of workers, mostly young women, were killed and injured by the accident, but workers' rights in Bangladesh have not yet improved.

Rana Plaza is not an isolated incident but represents serious workers exploitation by supplier factories producing goods for global industry.

Human Rights Now (HRN), a Tokyo based international NGO, is gravely concerned over labour rights violations in developing regions, especially China and South East Asia. Both regions have significant numbers of clothing factories that supply clothes and shoes to international brands, including Japanese brands. To lower production costs, these brands sometimes purchase goods manufactured in conditions that violate labour rights.

HRN emphasizes the importance of addressing these issues not only by criticizing local governments and factories, but also addressing broader structural problems.

HRN calls on the global industry to redouble its effort to ensure sustainable businesses that meet international human rights standards.

2. Findings of labour rights violations in UNIQLO suppliers in China

In 2014, HRN together with other organizations conducted a joint investigation into factory working conditions in China, focusing on two manufacturers of the Japanese brand UNIQLO.[1] The Investigation found four key issues relating to these factories that deserve immediate attention: (a) low basic salaries and long working hours, (b) high-risk unsafe working environments, (c) harsh management and punishment systems, and (d) the lack of worker representation.

Both manufacturers paid workers the minimum wage of their respective provinces, an amount well below the 2013 average monthly salary of workers in regions. Many factory workers are driven to work overtime in order to supplement their monthly salary, leading to shocking overtime hours as high as 156 hours per month. Investigations show that manufacturers hide their workers' overtime hours by asking workers to sign "voluntary applications of overtime work" that underrepresents the amount of hours worked or by manually recording overtime work exceeding 100 hours to avoid computer detection. Furthermore, manufacturers underpay overtime work, in clear violation of Chinese Labour Law, which requires double pay.

The factory environment poses great risk to workers' health and safety. Common issues include extremely high floor temperatures in the shops, dirty floors filled with sewage, the use of chemicals and irritants without proper ventilation and worker protection, and intense working pressures. These working conditions sometimes prove deadly. A worker died last year of electrocution due to electricity conducting through the sewage-filled floors. There are currently no effective measures implemented to address these serious issues.

Worker management is often facilitated by strict regulations, many of which are not stipulated in official worker regulations but rather are written on whiteboards in the factory. Among these regulations, fines are heavily used to control product quality and manage workers. For example, workers may be fined 50-100 RMB if they allow their knitting machines to become dirty. This practice is against Chinese Labour Law.

Some of the mentioned violations could be addressed if general workers are represented through democratic trade unions. However, workers in the factories lack effective mechanisms or platforms to submit their complaints and opinions about their working environments. One manufacturing company has a trade union; however, the union chair is also the director of the administrative department. The other factory has no trade unions but has an ineffective worker committee group and employee relations department in the factory.

3. Findings of labour rights violations in Cambodia

In February 2015, HRN conducted an investigation into clothing factory conditions in Cambodia, over 80% of whose exports are for the clothing industry. While the Cambodian government responded to international pressure by

[1] See SACOM/ HRN UNIQLO Report available at: http://hrn.or.jp/activity/event/ngo-4/

implementing new labour policies, HRN investigations reveal serious problems that still exist: inadequate minimum wage, poor working conditions, cruel and illegal amounts of overtime work, the problem of "disposable workers", discriminatory treatment of labour union activities, inadequate protections for female workers, workplace safety, inadequate mechanisms for redressing labour rights violations and attacks on labour unions.[2]

In 2015, the Cambodian government raised the minimum wage in clothing and shoe factories to $128 per month. However this increase does not adequately cover living expenses required to live in Phnom Penh, and thus workers are pressured to work overtime. Currently, labour unions are demanding wages above $160 per month, and NGOs are petitioning international brands to sign Fair Wage Agreements. For workers outside of clothing and shoe factories, minimum wages have not yet been set, and these workers still remain vulnerable to labour exploitation.

HRN interviewed employees from four manufacturing companies that supply to major international brands. The interviews reveal that the factory workers' overtime hours are more than double the daily limit under Cambodian law. Sometimes workers are even compelled to work 24-hour shifts, sometimes consecutively. Furthermore, no matter how much they work, the employee has a monthly payment cap, which results in unpaid overtime work. The factories skirt overtime payment obligations by instructing its workers to punch out at 6:00 pm, thus any overtime work after 6:00 pm is unpaid.

Workers feel compelled to work these gruelling hours by the threat being fired or unable to renew their employment contracts. These employment contracts are often short-term contracts lasting 1-3 months. Under Cambodian Labour Law, employment contracts exceeding two years become a labour contract of undetermined duration. Factories likely dispose of their workers before they are able to work two consecutive years in order to avoid the legal obligations required by labour contracts of undetermined duration. These "disposable workers" remain particularly vulnerable to forced overtime work, while being unable to voice their concerns to management.

Protection for female workers is another area showing serious rights violations. Many clothing factory workers are female, and Cambodian Labour Law includes provisions for female workers such as maternity leave. However, some female workers are dismissed during their pregnancy. Others are rejected for employment contract renewal if they ask for certain leaves or refuse overtime work. Female workers find it impossible to maintain work and family responsibilities under these harsh working conditions, and this lack of balance is detrimental to their health and well-being.

Worker health is further put at risk by poor safety conditions in the factories. Many injuries result from poor maintenance of the facilities and safety instructions that are inaccessible to the workers. Proper protection is often not provided, and when they are provided, the heat in the factory makes it impossible to wear the protective equipment. Interviewees reveal that workers are forced to wear masks and goggles only when inspectors come to the factory. Some workers pass out from the harsh environments.

According to the labour union in Cambodia, 6715 workers were dismissed due to their active participation in labour unions in 2014, out of which 60 percent were female workers.

This discrimination violates Cambodian Labour Law Articles 12 and 270, which prohibit discrimination over promotion or termination of employment based on worker membership in worker unions or the exercise of union activities.

Despite the serious situation, worker's rights violations are not sufficiently redressed. Cambodia still lacks effective mechanisms to redress these labour rights violations, including an Arbitration Council.

According to the workers HRN interviewed, the factories in question are indeed suppliers of international brands, such as H&M, Marks and Spencer, and Fast Retailing (UNIQLO, GU).

5. Recommendations

1) The workers situations in supplier factories for international brands in Cambodia and China have a lot in common, such as excessive / illegal overtime work, low salary, dangerous working environment, and denial of trade union activity. Both the Cambodian and Chinese governments fail to implement international labour standard and domestic labour laws. They also fail to provide effective mechanisms to protect workers' rights.
Hence, HRN urges both the Chinese and Cambodian governments to strengthen efforts to enforce their labour laws and provide effective mechanisms to ensure workers' fundamental rights.

[2] See HRN Cambodia Report available at http://hrn.or.jp/eng/news/2015/04/16/cambodia-labour-exploitation-in-the-garment-industry-responsibilities-of-the-cambodian-government-and-international-brand-companies/

2) At the same time, HRN emphasizes the responsibility of the international brands subcontracting factories where workers' rights violations are identified or claimed in China and Cambodia.

In accordance with the UN Guiding Principle on Business and Human Rights, business enterprises have an obligation to "*seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships.*" [1]

HRN calls on the international brands mentioned, including Fast Retailing (for whom violations in China and Cambodia are reported), H&M, INDITEX and Marks and Spencer (for whom violations in Cambodia are reported), to conduct dialogues with suppliers over the identified problem and root causes, and together with the suppliers, establish action plans to eliminate all violations and disclose the entire process to the public.

HRN also calls on all international apparel brands to adhere to international human rights and labour standards, and take all necessary measures to eliminate all negative impacts to workers' rights in entire process of their supply chains.

[1] UN Guiding Principle on Business and Human Rights